

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

RONALD BUZZARD, JR.,

Plaintiff,

v.

STATE OF WASHINGTON, et al.,

Defendant.

Case No. C20-01559-RAJ-SKV

ORDER DENYING MOTION TO  
STAY AS MOOT

This is a 42 U.S.C. § 1983 prisoner civil rights action. The Court screened Plaintiff's amended complaint in this action pursuant to 28 U.S.C. § 1915A and § 1915(e), and issued a Report and Recommendation recommending dismissal of Count III of Plaintiff's amended complaint without prejudice as barred by *Heck v. Humphry*, 512 U.S. 477 (1994). Dkt. 33. By order dated October 28, 2021, the Hon. Richard A. Jones adopted the Report and Recommendation issued by the undersigned and dismissed Count III of Plaintiff's amended complaint without prejudice. Dkt. 39. On November 12, 2021, Plaintiff filed an appeal of the order dismissing Count III of his amended complaint to the Ninth Circuit Court of Appeals. Dkt. 40.

1 Plaintiff subsequently filed the instant motion seeking to stay proceedings in this action  
2 pending the outcome of his appeal. Dkt. 54. Shortly after Plaintiff filed this motion, the Ninth  
3 Circuit dismissed Plaintiff's appeal for lack of jurisdiction because "the order challenged in the  
4 appeal is not final or appealable. *See* 28 U.S.C. § 1291; Fed. R. Civ. P. 54(b); *Chacon v.*  
5 *Babcock*, 640 F.2d 221, 222 (9th Cir. 1981) (order disposing of fewer than all claims against all  
6 parties not immediately appealable unless district court directs entry of judgment pursuant to  
7 Fed. R. Civ. P. 54(b))." *See* Dkt. 58.

8 As Plaintiff's appeal is no longer pending, having been dismissed, it appears Plaintiff's  
9 motion to stay is now moot. Accordingly, Plaintiff's motion to stay, Dkt. 54, is DENIED as  
10 moot.

11 The Clerk is directed to send a copy of this order to the parties and to the Hon. Richard  
12 A. Jones.

13 Dated this 7<sup>th</sup> day of February, 2022.

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16 S. KATE VAUGHAN  
17 United States Magistrate Judge  
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